

REMARKS

I. Introduction

Claims 1 and 3-10 are pending in the present application after cancellation of claim 2. Claim 1 has been amended to incorporate the features of now-canceled claim 2. Pending claims 1 and 3-10 stand rejected. Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the above amendments and the following remarks.

II. Claim 1 is not anticipated by Totsuka

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,457,448 (“Totsuka”). Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

To anticipate a claim under § 102(b), a single prior art reference must identically disclose each and every claim element. See Lindeman Machinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claim invention, arranged as in the claim. Lindeman, 703 F.2d 1458 (Emphasis added).

Claim 1, as amended, recites “making available a predetermined number of operator controls assigned to respective operating functions of a first device type; assigning respective operating functions of each further type of device to the operator controls; *selecting a device type to be controlled by the operator controls among various device types, the operating functions of the operator controls being changed corresponding to the selection; and characterizing the operator controls using at least one of the following symbols from an audio field: a play symbol, a stop symbol, a pause symbol, a skip forwards symbol, a skip backwards symbol, a double arrow left, and a double arrow right.*” In contrast to claim 1, Totsuka simply does not teach or suggest “characterizing the operator controls using at least one of the following symbols from an audio field: a play symbol, a stop symbol, a pause symbol, a skip forwards symbol, a skip backwards symbol, a double arrow left, and a double arrow right.” The stated objective of Totsuka is to simplify the control of entertainment devices, which objective is achieved by minimizing the number of operator control elements, and the claimed operator control symbols are simply not taught or suggested.

III. Claims 1 and 5-7 are not anticipated by Palalau

Claims 1 and 5-7 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,373,472 (“Palalau”). Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986). To the extent the anticipation rejection is based on the inherence doctrine, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flow from the teachings of the applied art.” See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990).

Claim 1, recites “making available a predetermined number of *operator controls assigned to respective operating functions of a first device type; assigning respective operating functions of each further type of device to the operator controls; selecting a device type to be controlled by the operator controls among various device types, the operating functions of the operator controls being changed corresponding to the selection; and characterizing the operator controls using at least one of the following symbols from an audio field: a play symbol, a stop symbol, a pause symbol, a skip forwards symbol, a skip backwards symbol, a double arrow left, and a double arrow right.*” Claim 5, as amended, recites “a switching device for switching application of the control system among various device types to be controlled, wherein *operating functions of the plurality of operator controls are changed corresponding to a selected device type to be controlled.*”

In support of the rejection of claim 1, the Examiner contends that Palalau teaches “a predetermined number of operator controls (30, including 30a-30c) assigned to respective operating functions of each of the devices (see Figs. 4-6 . . .); and selecting a device type (see switches 28) to be controlled by the operator controls among various device type (audio, climate, navigation . . .), the operating functions of the operator controls being changed corresponding to the selection.” In support of the rejection of claim 5, the Examiner contends that Palalau discloses in Fig. 1 “the control system comprising a plurality of operator controls (30, including 30a, 30b, 30c), a switching application of the control system among various device types to be controlled, wherein operating functions for indicating the

type of device to be controlled and corresponding operating function parameters.” Applicants will address these issues in detail below.

Initially, with respect to the Examiner’s contentions regarding the teachings of Palalau as applied against claim 1, Applicants note that the Examiner’s rejection is legally inadequate since the Examiner does not even mention the claimed feature of “*assigning* respective operating functions of *each further type of device to the operator controls*,” as recited in claim 1. Since the Examiner has clearly failed to show that each and every claim feature is identically described or contained in a single prior art reference, the anticipation rejection of claim 1 is legally inadequate, and this rejection should be withdrawn.

Independent of the above, to the extent the Examiner may be contending that elements 30a-30c of Palalau satisfy the claimed features of “*operator controls assigned to respective operating functions of a first device type*,” and “*assigning* respective operating functions of *each further type of device to the operator controls*,” as recited in claim 1, this contention is simply incorrect. According to the claimed invention, a definite operating function is unambiguously assigned to each operator control for each device type. In contrast, in accordance with Palalau, such a definite operation function is not assigned to each operator control, as explained in greater detail below.

Palalau discloses that for a given device type, e.g., for the audio play-back device, different operating functions, i.e., audio feature settings, can be assigned to the keys 30a and 30c by using the selector switch 30b. Thus, for example, the volume, balance and tuning can be selected via the selector switch 30b, and the keys 30a and 30c implement up and down controls, respectively, for each selected audio feature setting. Selector switch 30b clearly does not satisfy the claimed feature of “*operator controls assigned to respective operating functions of a first device type*,” since selector switch 30b is not assigned to any operating function of a particular device type. Furthermore, keys 30a and 30c are not assigned to any particular operating functions of different device types; the functions of keys 30a and 30c are always the same, i.e., up (key 30a) and down (key 30c), regardless of the particular device type selected (by pressing one of the feature group switches 28) or the particular feature group selected (by using the selector switch 30b) within the device type selected. Furthermore, for a particular device type selected by using the feature group switches 28, e.g., audio play-back, a particular sub-function for the particular device type must be further selected by the selector switch 30b, e.g., volume, balance and tuning. Therefore, in contrast to the present claimed invention, Palalau system does not teach or suggest that a definite operating function is unambiguously assigned to each operator control for each device type. Instead, a user of Palalau system must not only find out **which device type** is currently selected (e.g., audio play-back), but also to **which particular sub-function**

(e.g., volume, balance and tuning) of this device a particular key is currently assigned. Furthermore, since keys 30a and 30c always have the same function (up or down) and are **not assigned to any particular operating functions** of different device types, Palalau does not teach or suggest the claimed feature of “*the operating functions of the operator controls being changed corresponding to the selection*” of the device type.

With respect to the Examiner’s contentions regarding the teachings of Palalau as applied against claim 5, Applicants note that the Examiner’s rejection is legally inadequate since the Examiner does not even cite which parts or elements of Palalau satisfy each of the claimed features. As clearly required by 37 C.F.R. 1.104(c)(2), when “a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated.” Since there is no question that Palalau reference is both complex and discloses much more than what is allegedly equivalent to the claimed features of Applicants’ invention, the Examiner must specify which sections and/or elements of Palalau allegedly satisfy the claimed features. Since the Examiner has failed to cite which parts or elements of Palalau satisfy each of the claimed features, the anticipation rejection of claim 5 and its dependent claims 6 and 7 is legally inadequate, and this rejection should be withdrawn.

Independent of the above, Applicants note that Palalau does not teach or suggest the claimed feature that “*operating functions of the plurality of operator controls are changed corresponding to a selected device type to be controlled,*” for the reasons stated in connection with claim 1.

In view of the above discussion, Applicants respectfully submit that Palalau does not anticipate claims 1 and 5, as well as claims 6 and 7 dependent on claim 5. Withdrawal of this rejection is respectfully requested.

IV. Pending Claims 3-4 are not rendered obvious by Palalau

Claims 2-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Palalau. Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

Claim 2 has been canceled, and the limitations of now-canceled claim 2 have been incorporated into amended claim 1. Claims 3 and 4 depend from claim 1. Since Palalau does not anticipate parent claim 1 for the reasons stated above, and since the Examiner’s obviousness argument does not specifically address the features of parent claim 1, Applicants

respectfully submit that dependent claims 3 and 4 are patentable over Palalau for the reasons stated in connection with claim 1. Withdrawal of this rejection is respectfully requested.

V. Claims 8-10 are not rendered obvious by Palalau and Trovato

Claims 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Palalau in view of U.S. Patent No. 6,445,306 ("Trovato"). Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

Claims 8-10 ultimately depend from claim 5. Since Palalau does not anticipate parent claim 5 for the reasons stated above, and since Trovato does not remedy the deficiencies of Palalau as applied against parent claim 5, Applicants respectfully submit that dependent claims 8-10 are allowable over the combination of Palalau and Trovato.

VI. Conclusion


In view of the above amendments and remarks, it is respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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Dated: 10/17, 2005

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